IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1974 OF 2005

Laxman Manohar Divekar ...Petitioner.

Versus

State of Maharashtra
and Anr. ...Respondents.

Mr.R.S.Kate, Adv. for Petitioners.
A.S.Shitole, APP, for State.

CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 22nd February, 2007.

P.C.:

1. Heard learned Advocate for the petitioner-orig.complainant and the learned APP for the State. Perused the say filed by the respondent.

2. The petitioner is the original complainant in C.C.No.711/2004, which is pending before the learned JMFC, Pune. The said case is under Section 138 of N.I.Act. In the said case the petitioner-orig.complainant had preferred an application to recall himself or reexamine himself

in the said proceedings. It is the case of the petitioner that there is a daily book in which the accused has signed in respect of obtaining the amount. The petitioner-orig.complainant wanted that he should be recalled and allowed to be reexamined in support of the daily book. The accused has denied the signature on the said daily book.

3. The said application came to be rejected by the learned JMFC by order dated 7.7.2005. The learned JMFC rejected the application on the ground that the matter had reached to the stage of final arguments and no reason was assigned by the complainant as to why the daily book was not produced earlier.

4. Admittedly, in the present case the evidence had been led by both the sides and after closure of evidence, statement under Section 313 Cr.P.C. was recorded and the matter was kept for arguments. If according to the petitioner-complainant he has filed a daily book wherein the accused has signed in token of having received an

amount and to prove the entry, he wanted to reexamine himself, no reason has been furnished by the complainant as to why the daily book was not produced at the time of filing of the complaint or atleast during the course of leading evidence.

5. On perusal of the application dated 30.5.2005 preferred by the complainant before the trial Court for reexamining himself, it is seen that no reason is given therein as to why the daily book was not produced earlier or during the course of evidence. There is absolutely nothing stated in the application as to why the complainant had not taken any steps in respect of the said daily book till the case reached the stage of arguments. In this view of the matter, the learned JMFC has rightly rejected the application. No case is made out for interference.

6. Writ Petition is disposed of.

(SMT.V.K.TAHILRAMANI,J.)